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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,849	01/26/2004	Joerg Mueller	CM2586CQ	9787
27752	7590	01/26/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			BOGART, MICHAEL G	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/764,849	Applicant(s) MUELLER ET AL. <span style="float: right;">ED</span>	
	Examiner Michael G. Bogart	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11, 13, 14 and 18 is/are rejected.
- 7) ☒ Claim(s) 8, 12 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/26/2005</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 7, 11, 13, 14 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kobayashi *et al.* (GB 2 298 627 A).

Regarding claim 1, Kobayashi *et al.* teach an external change aid comprising a changing mat (20F) having a planar side having areas (21F) comprising engaging means (24F, 25F) engageable with an absorbent article (10E) adapted to be worn externally on a lower torso of a wearer and areas not comprising such engaging means (perimeter of mat (20F), space between rows of irregularities (24F)), whereby said engaging means (24F, 24F) assists in the application or removal of said absorbent article when so engaged (figures 17-19). The engaging means (24F, 25F) include irregularities that assist in the application of the absorbent article (10E) by providing a relatively weak engagement between the mat (20F) and the article (10E). They in effect function as a peel surface to allow the absorbent article to be readily separated from the mat (20F) once it has been opened (page 38 line 12-page 41, line 7) preserving adhesive on the article (10E) which allows the article (10E) to be attached to a wearer or their undergarments.

Fig .17

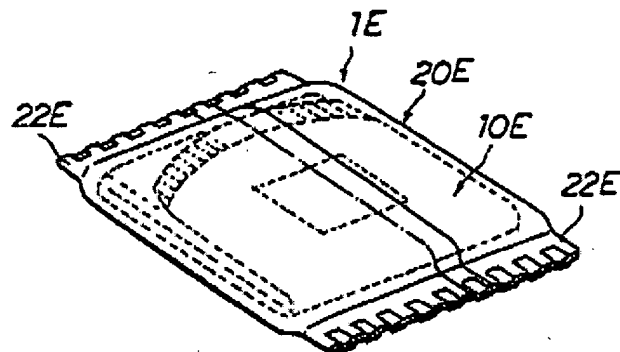


Fig .18

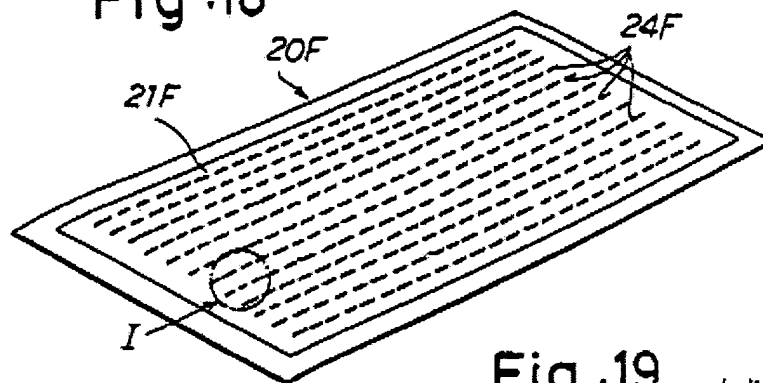
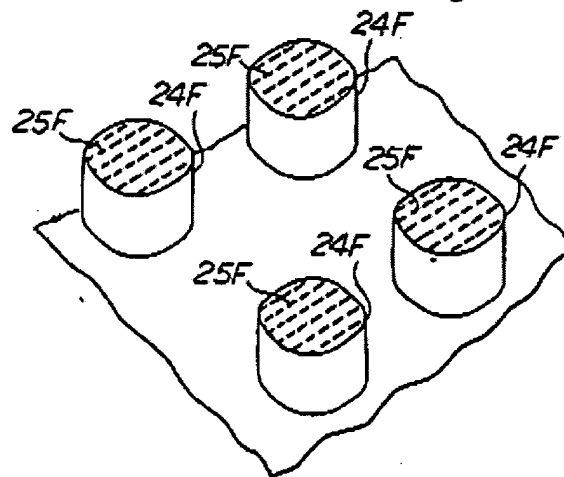


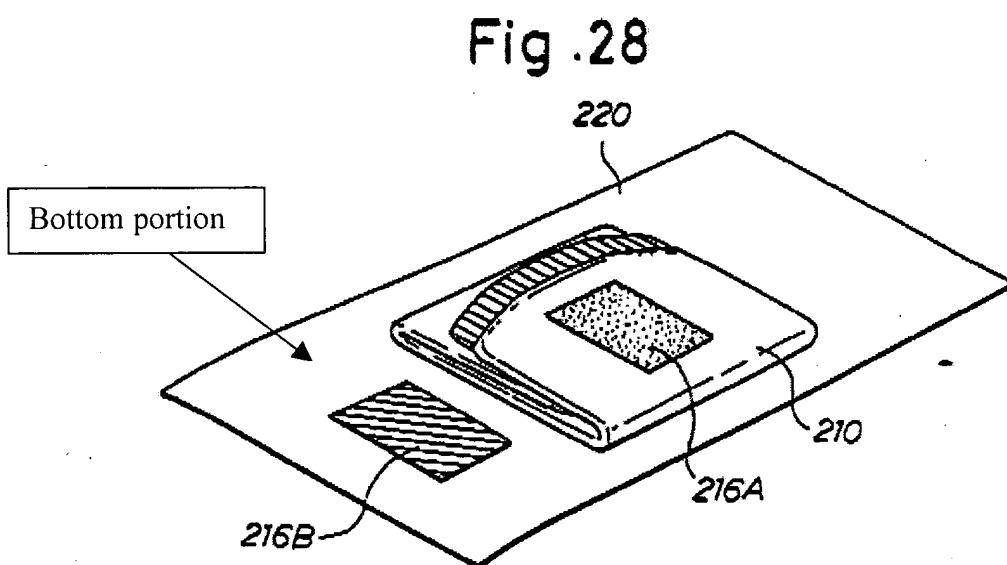
Fig .19



Regarding claim 2, the reference teaches that the engaging means (24F, 25F) comprises one or more engaging members in the form of stripes, rectangles, dots, circles or triangles.

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Regarding claim 3, the reference teaches in another embodiment, engaging members (216B) comprising engaging elements selected from interlockable elements, hooks, loops, adhesives, cohesives, or combinations thereof (figure 28). It is noted that this embodiment also includes all of the limitations of claims 1 and 2 (figure 28)(page 48, last paragraph-page 56, 2<sup>nd</sup> paragraph).



Regarding claim 4, the reference teaches that the engaging means (216) is adapted to releasably engage the absorbent article (210) by an application of pressure on said engaging means (216) in order to bring the cover (220) into contact with the article (210)(page 55, line 2- page 56, line 5).

Regarding claim 6, the reference teaches that only the bottom portion comprises engaging means (216B)(figure 28).

Regarding claim 7, the reference teaches that the mat (20) is foldable (figure 17).

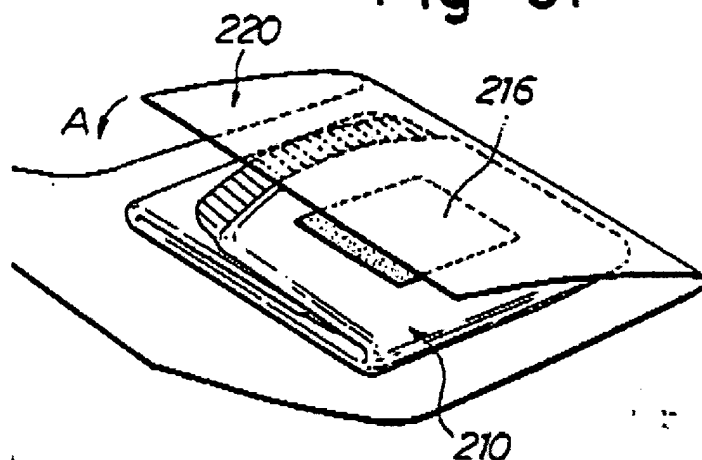
Regarding claim 11, the reference teaches that the engaging means (216B) is adapted to engage with a landing member (216A) on the absorbent article (210)(figure 28).

Regarding claim 13, Kobayashi *et al.* teach an article of commerce comprising a package (220) containing an external change aid comprising a changing mat (220) having a planar side having areas comprising engaging means (24F) and areas not comprising such engaging means (perimeter), wherein the planar side has a top portion and a bottom portion and only the bottom portion comprises said engaging means (216B), said engaging means (216B) comprising one or more engaging members in the form of stripes, rectangles, dots, circles or triangles, said engaging members comprising engaging elements selected from interlockable members, hoops, loops, adhesives or cohesives, and also containing an absorbent article (210) adapted to be worn externally on a lower torso of a wearer, wherein said engaging means (216B) is adapted to engage with said absorbent article (210) and thereby assist in the application or removal of said absorbent article (210) when so engaged (figure 28). See discussion of claim 1 regarding how the changing mat can be used to assist in the application of the absorbent article.

Regarding the limitation concerning the package containing a change aid, it is noted that a generally recognized synonym of the term “contain” is “comprise”, or “include”. See *Merriam Webster’s Collegiate Dictionary 10<sup>th</sup> Edition*, 1996.

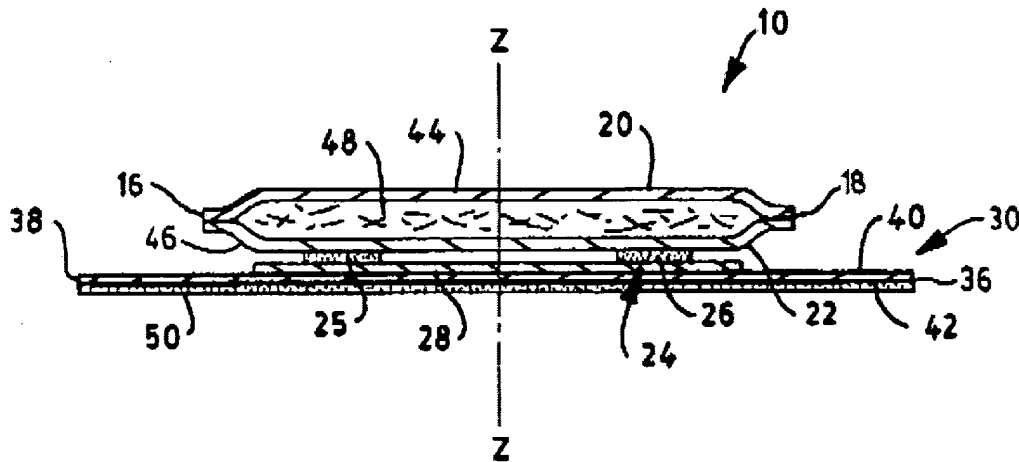
Regarding claims 14 and 18, the reference teaches that the external change aid (220) is engaged with the absorbent article (210)(figures 28 and 31).

Fig. 31



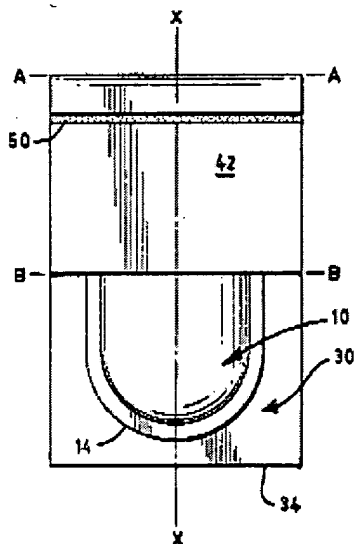
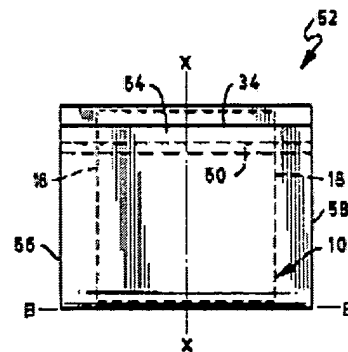
Claims 1, 9 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Balzar *et al.* (US 6,036,679 A).

Regarding claim 1, Balzar *et al.* teach an external change aid comprising a changing mat (30) having a planar side having areas (40) comprising engaging means (24) engageable with an absorbent article (10) adapted to be worn externally on a lower torso of a wearer and areas not comprising such engaging means (area between adhesive strips (25, 26)), whereby said engaging means (24) assists in the application or removal of said absorbent article (10) when so engaged (figure 2).

**FIG. 2**

Regarding claim 9, Balzar *et al.* teach an adhesive restraining means (50) on an opposing planar side which can fasten the external change aid (30) to an external object (figure 2).

Regarding claim 10, Balzar *et al.* teach a change aid (30) comprising at least two parts, opposite ends (36, 38), either of which can be folded around the absorbent article (10) to be connected by the restraining means (50)(figures 2, 4 and 5).

**FIG. 4****FIG. 5**



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi *et al.*

The reference discloses the claimed invention except for the specific width of the engaging member.

Mere changes in size alone are not sufficient to patentable distinguish a claimed invention over the prior art absent a showing of unexpected result. *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

*Allowable Subject Matter*

Claims 8, 12 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19 and 20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 8, the art of record fails to expressly disclose a foldable changing mat that is stiffened by being unfolded.

Regarding claims 12 and 16, the art of record does not teach a change mat with an engaging means comprising hooks to engage loops in a landing member on an absorbent article. The most relevant art of record, Balzar *et al.* and Kobayashi *et al.* both teach adhesive engaging means, not mechanical hook and loop.

Regarding claim 15, the art of record fails to teach in addition to the a package including a change mat with an engaging means, a first absorbent article being engaged with the engaging means, and additional absorbent articles which are not engaged with the engaging means.

Regarding claim 17, the most relevant art of record, Balzar *et al.* and Kobayashi *et al.* are directed to sanitary napkins and do not teach a packaged changing mat with an engagement member and a diaper with an elastic topsheet.

Regarding claims 19 and 20, Balzar *et al.* and Kobayashi *et al.* substantially teach all of the claimed physical structure of the instant invention. However, the references do not teach the claimed method of sequential steps for changing a diaper using the changing aid.

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*Conclusion*

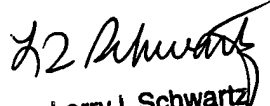
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Larry Schwartz may be reached at phone number (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Bogart  
21 January 2005

  
Larry I. Schwartz  
Supervisory Patent Examiner  
Group 3700